



# Voices from the Rwanda Tribunal

## Official Transcript: Inés Weinberg de Roca (Part 8 of 10)



<b>Role:</b>	Judge
<b>Country of Origin:</b>	Argentina
<b>Interview Date:</b>	27 October 2008
<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Robert Utter Donald J Horowitz
<b>Videographer:</b>	Max Andrews
<b>Interpreter:</b>	None

### Interview Summary

Inés Weinberg de Roca draws attention to the difficulties of straddling common law and civil law systems, highlighting the major differences between adversarial and investigative approaches in the courtroom. She discusses the importance of involving locals in proceedings, reflecting on the benefits that would have arisen from locating the Tribunal in Rwanda. She speculates that it may have been preferable to wait until Rwanda could house the court domestically, or to have based the Tribunal in Europe where better infrastructure would facilitate proceedings.

*The transcript of Part 8 begins on the following page.*

## Part 8

- 00:00 **Donald J Horowitz: Now I wanted to ask you – you used the word site visits and I know what it means but we’re talking here to people who are not lawyers as well as lawyers. We’re talking to people 20 and 30 years from now. Can you just tell us what you mean by a site visit?**
- 00:15 In the cases to understand the evidence, the parties request the bench to visit the places where the crimes allegedly occurred, to show that it could or not have, could not have happened the way the testimonies go.
- 00:32 **DJH: Okay, so you actually view the site where it happened but you don’t take new testimony while you’re there.**
- 00:37 No, we don’t take testimony. We make photos or notes but no new test- . . .
- 00:43 **DJH: No questions of . . .**
- 00:44 No questions.
- 00:45 **DJH: . . . of witnesses, that kind of thing, okay. You were talking about the delay and you began that by talking about the lack of health care.**
- 00:59 Well, it’s a mix, also, the composition of the benches, so it’s a qu-, a partly management, internal management of the tribunal and partly the infrastructure of the place.
- 01:11 **DJH: Okay, it seem-, the delay, correct me if I’m wrong, seems to have, for the la-, things seem to have speeded up some in the last few years. Am I misinformed by that?**
- 01:25 I don’t think so. I think the different Presidents want to make both here and (\_\_\_) former Yugoslavia. It’s only natural that they say, “During my term, everything has gone smoother.” I don’t think so. Pro-, possibly yes, the first four years were the most, were the slowest because the infrastructure had to be built.
- 01:47 For example, the second President, Judge Pillay who is now the High Commissioner for Human Rights, she told me that the judges at the time were so grateful because she could provide glass for the windows.
- 01:57 **DJH: My goodness.**
- 01:57 So, that gives you an idea of the place. So if you even have to take care of having a windows set in the building, the delays are sort of comprehensible. I think that she was the great President of this tribunal, and that it was during her presidency that we had the important leading cases.

**02:23 DJH: And I would, you're, you're now getting to the next questions I was going to ask. Are there any cases . . .**

02:29 Well, her case, I think it was her first case, Akayesu is really one of the important ones in which she stayed the proceedings. The Prosecutor have not indicted for, for rape or sexual violence, and the witnesses came and testified and testified over and over again.

02:54 And she stayed the proceedings, had the Prosecutor amend the indictment then gave defense time to investigate and that was the first time that rape was considered crime against humanity and genocide, I think.

03:09 And then the jurisprudence of the ICTY followed the ICTR jurisprudence. I think there we-, during that period there were quite some very, quite some challenging cases, and hers was also the much criticized Media judgment but I think it was a good judgment.

**03:31 DJH: Tell me about – can you be a little specific . . . ?**

03:33 This Media judgment – indicted were a journalist, were . . .

**03:43 DJH: Some radio people, I think.**

03:45 Yes, and radio people and ( ), and it was a case of freedom of expression and free speech against the incitement to commit genocide, and the fine line with a lot of intervention from, fo-, from NGOs especially from the U.S. who thought that freedom of speech is über alles, the important thing. And, and I think it was a great judgment and a great appeal chamber judgment.

**04:18 DJH: It was a balancing of the, of the interest, would you say that?**

04:20 Yes.

**04:22 DJH: Are there any other case-, are there any cases in which you participated? I don't know whether you participated in either of those (\_\_\_\_) . . .**

04:29 No, well I, I was a pre-appeal judge in, for some time in the Media case. From the law, legal point of view, I think that one of my cases will be interesting because the accused is Simon Bikindi who is the Michael Jackson of Rwanda, so he's accused because of the, of his songs, for singing and because of the text of his songs, among other things.

**04:57 DJH: And, and what was the judgment on that?**

04:59 The judgment will be delivered on the second of December so you have to wait.

**05:02 DJH: Oh, okay, okay. And there's no – I can't go to the Michael Jackson case for precedent I gather. Okay, you don't need to answer that.**

- 05:13**      **Max Andrews: No sneak preview?**
- 05:15**      **DJH: Are there, are there, is there something you've been involved with here, that surprised you, you know, or, after you came here – other than anything you've said – anything here that surprised you?**
- 05:31      Yes, possibly but I'm, have, would have to think. I, there, it's a place full of surprises but if you ask me to put them now, count them one by one, it's not . . .
- 05:47**      **DJH: No, just anything big. I mean, you know, if, if not that's fine.**
- 05:53      The whole place is so different from what I was used to, that it was (\_\_\_\_) . . .
- 05:56**      **DJH: Okay. Is there anything that you feel really proud of that you participated in?**
- 06:04      No.
- 06:06**      **DJH: Disappointed, I think you've already said.**
- 06:09      Not disappointed. That is, I don't think the word I chose.
- 06:13**      **DJH: Okay, tha-, no it isn't.**
- 06:15      It's not disappointed. I'm not disappointed but I haven't been happy about my work, which is not the same as disappointed.
- 06:24**      **DJH: Okay. And I think you've explained. If, if you haven't . . .**
- 06:27      No, no. I think I have explained why.
- 06:28**      **DJH: Okay.**